

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

CR- 07-000018-001

October 10, 2007
10:35 a.m.

UNITED STATES OF AMERICA -v- LIN, BING XIAN

PRESENT: HON. ALEX R. MUNSON, Chief Judge Presiding
SANAE SHMULL, Court Reporter
LYNN LEMIEUX, Courtroom Deputy
ERIC O'MALLEY, Assistant U. S. Attorney
COLIN THOMPSON, Counsel for Defendant
LIN, BING XIAN, Defendant

PROCEEDING: SENTENCING

Defendant was present with his counsel, Attorney Colin Thompson. Government by Craig Moore, AUSA. Also present was U.S. Probation Officer, Melinda Brunson.

Jean Shi was present as interpreter/translator of the Mandarin language.

No objection by the government of the presentence report. Counsel for defendant had objections and corrections and reported those to the Court.

Court recessed at 11:00 a.m. and reconvened at 11:20 a.m.

Defense moved to amend the offense level based on the amount of drugs that were distributed in two separate drug distribution acts. Government argued. Court DENIED the motion.

Court adopted the presentence investigation report, as modified, and instructed the Clerk to file the report, under seal, and that the report be made available if the judgment is appealed. The probation officer's recommendation shall also be placed under seal. No objection by the parties.

Government moved for a sentence of 30 months imprisonment with appropriate time of supervision. Defense moved for a downward departure and a sentence of twenty-four months imprisonment.

Defendant made his allocution.

SENTENCE: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant **LIN, BING XIAN** is hereby sentenced to **30 months** imprisonment. Upon release from imprisonment, the defendant is ordered to serve a term of supervised release of three years which will include the following conditions:

1. The defendant shall be delivered to a duly authorized immigration official for deportation proceedings pursuant to 18 U.S.C. §3583 (d), and with the established procedures provided by the Immigration and Naturalization Act under 8 U.S.C. §1101. As a further condition of supervised release, if deported, the defendant shall remain outside the United States and re-enter without the permission of the Secretary of the Department of Homeland Security. If deportation does not occur and the defendant is released from confinement pending further immigration proceedings, he shall immediately report to the U.S. Probation Office to begin his term of supervised release;
2. The defendant shall not commit another federal, state, or a local crime;
3. The defendant shall not unlawfully possess a controlled substance and shall refrain from any unlawful use of a controlled substance. He shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter. Further, the defendant shall submit to a maximum of eight drug tests per month, as directed by the probation officer;
4. The defendant shall submit to a collection of a DNA sample at the direction of the U.S. Probation Office;
5. The defendant shall comply with the conditions of supervision as adopted by this Court;
6. The defendant shall be prohibited from possessing a firearm or other dangerous weapon as defined by federal, state, or local law, or have such weapon where he resides;
7. That the defendant shall participate in a program approved by the U.S. Probation Office for substance abuse, which program may include testing to determine whether the defendant has reverted to the use of drugs or alcohol. The defendant shall also make co-payment for the program at a rate to be determined by the U.S. Probation Office;
8. The defendant shall refrain from the use of any alcoholic beverages; and
8. The defendant shall complete 200 hours of community service under the direction of the U.S. Probation Office.

Court ordered that all fines be waived due to the defendant's inability to pay.

Defendant shall forfeit all monies and/or property as previously agreed to in the plea agreement with the Government.

Further, the defendant was ordered to pay a special assessment fee of \$100.00.

No objection to the sentence by the attorneys. Defendant was advised that he had previously waived his right to appeal the sentence in this case but that if he or his attorney find any other reason in which to appeal that he had ten days in which to do so. Further, the defendant was advised of his right to an attorney for appeal and that the Court will appoint an attorney if he could not afford one.

Government moved to dismiss Count II of the indictment. Court so ordered.

Defendant was remanded into the custody of the U.S. Marshal.

Adj. 11:45 a.m.

/s/ Lynn Lemieux, Courtroom Deputy